

charging letter, or other order proposed or issued under this part.

Under Secretary. The Under Secretary for Export Administration, United States Department of Commerce.

§ 280.602 Violations.

(a) *Engaging in prohibited conduct.* No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any action required by the Act, this part, or any order issued thereunder.

(b) *Causing, aiding, or abetting a violation.* No person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the Act, this part, or any order issued thereunder.

(c) *Solicitation and attempt.* No person may solicit or attempt a violation of the Act, this part, or any order issued thereunder.

(d) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Act, this part, or any order issued thereunder.

(e) *Misrepresentation and concealment of facts.* No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to NIST, or the Bureau of Export Administration, the Patent and Trademark Office, or any official of any other United States agency, or indirectly through any other person:

(1) In the course of an investigation or other action subject to the Act and this part; or

(2) In connection with the preparation, submission, use, or maintenance of a laboratory test report, certificate of conformance as described in §§ 280.5 and 280.6 of this part, or any quality assurance system document required by this part or;

(3) In connection with any application for laboratory accreditation as described in § 280.205 of this part; or

(4) In connection with an application to be an accreditation body as described in § 280.301 of this part.

(f) *Falsification of test report.* No person shall falsify or make any false or

misleading statement on or in connection with a laboratory test report required by section 5(c) of the Act or § 280.6 of this part.

(g) *Falsification of certificate of conformance.* No person shall falsify or make any false or misleading statement on or in connection with a certificate of conformance required by § 280.5 of this part.

(h) *Falsification of documents relating to accreditation of laboratories or registrars or approval or recognition of accreditors or accreditation bodies.* No person shall falsify or make any false or misleading statement on or in connection with any document relating to laboratory accreditation or approval or recognition of accreditation bodies, Accreditors or Registrars as required by section 6(a) or 6(b) of the Act or this part.

(i) *Use of another person's recorded insignia.* No person may apply an insignia to a fastener if the Commissioner has issued a certificate of recordal (as described in § 280.712 of this part) for that insignia to another person without written permission from the person to whom the certificate was issued.

(j) *Falsification of laboratory accreditation, accreditation body or accreditor.* No person shall falsely claim to be an accredited laboratory or approved or recognized accreditation body or Accreditor as described in section 6 of the Act or subparts B, C, D, E, I and J of this part.

(k) *Sale of fasteners manufactured prior to the implementation date as compliant with the Act.* No person shall represent, sell, or offer for sale fasteners manufactured prior to June 1, 1999, as being in conformance with the Act or this part except as provided for in § 280.12(d) or (e) of this part.

(l) *Failure to assign lot number traceable to manufacturer's single, unique lot number.* No importer, distributor, or significant alterer shall assign a lot number unless the assigned lot number is traceable to a manufacturer's single, unique lot number.

(m) *Falsification of documents relating to the registration of fastener manufacturing facilities as accredited laboratories, accreditation of registrars or recognition of accreditors.* No person shall falsify or

§ 280.603

make any false or misleading statement on or in connection with any document relating to the registration of Fastener Manufacturing Facilities as accredited laboratories, accreditation of Registrars or recognition of Accreditors as required by subparts I, J, K, and L of this part.

(n) *False claim of registration of fastener manufacturing facilities as accredited laboratories, accreditation of registrars, and recognition of accreditors.* No person shall falsely claim to be a registered Fastener Manufacturing Facility, an accredited Registrar, or a recognized Accreditor as described by subparts I, J, K, and L of this part.

(o) *Falsification of documents relating to the certification of FQA compliance required for provisional listing on the Facilities List.* No person shall falsify or make any false or misleading statement on or in connection with any document relating to the certification of FQA compliance required for provisional listing on the Facilities List pursuant to § 280.810(c)(3).

[61 FR 50558, Sept. 26, 1996, as amended at 63 FR 18275, Apr. 14, 1998; 63 FR 34965, June 26, 1998; 63 FR 51526, Sept. 28, 1998]

§ 280.603 Penalties, remedies, and sanctions.

(a) *Civil remedies.* The Attorney General may bring an action in an appropriate United States district court for declaratory and injunctive relief against any person who violates the Act or any regulation issued thereunder. Such action may not be brought more than 10 years after the cause of action accrues.

(b) *Civil penalties.* Any person who is determined, after notice and opportunity for a hearing, to have violated the Act or any regulation issued thereunder shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.

(c) *Criminal penalties.* (1) Whoever knowingly certifies, marks, offers for sale, or sells a fastener in violation of the Act or a regulation issued thereunder shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(2) Whoever intentionally fails to maintain records relating to a fastener in violation of the Act or a regulation

15 CFR Subtitle B, Ch. II (1–199 Edition)

issued thereunder shall be fined under title 18, United States Code, or imprisoned not more than five years or both.

(3) Whoever negligently fails to maintain records relating to a fastener in violation of the Act or a regulation issued thereunder shall be fined under title 18, United States Code, or imprisoned not more than two years or both.

§ 280.604 Administrative enforcement proceedings.

Sections 280.605 through 280.623 set forth the procedures for imposing administrative penalties for violations of the Act and Fastener Quality Regulations (FQR).

§ 280.605 Institution of administrative enforcement proceedings.

(a) *Charging letters.* The Director of the Office of Export Enforcement (OEE) may begin administrative enforcement proceedings under this part by issuing a charging letter. The charging letter shall constitute the formal complaint and will state that there is reason to believe that a violation of this part has occurred. It will set forth the essential facts about each alleged violation, refer to the specific regulatory or other provisions involved, and give notice of the sanctions available under the Act and this part. The charging letter will inform the respondent that failure to answer the charges as provided in § 280.608 of this part will be treated as a default under § 280.609 of this part, that the respondent is entitled to a hearing if a written demand for one is requested with the answer, and that the respondent may be represented by counsel, or by other authorized representative. A copy of the charging letter shall be filed with the administrative law judge, which filing shall toll the running of the applicable statute of limitations. Charging letters may be amended or supplemented at any time before an answer is filed, or, with permission of the administrative law judge, afterwards. The Department may unilaterally withdraw charging letters at any time, by notifying the respondent and the administrative law judge.

(b) *Notice of issuance of charging letter instituting administrative enforcement*